

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Albert S. Kelly,)	C/A No. 4:15-1518-TLW-TER
)	
Petitioner,)	
)	
vs.)	
)	REPORT AND RECOMMENDATION
Warden Kirkland Correctional Institution,)	
)	
Respondent.)	
_____)	

Petitioner, appearing *pro se*, filed his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254¹ on April 8, 2015. On August 13, 2015, Petitioner filed a motion entitled “Motion to Rule on Behalf of Petitioner for States failure to Prosecute.” (Doc. #32). This motion is being treated as a motion for default judgment.

It is recommended that this motion for default judgment be denied. Based on the court’s docket sheet, Respondent filed a motion for an extension of time on July 6, 2015. (Doc. #19). This motion for extension of time was granted by order on July 6, 2015, giving Respondent up to and including August 5, 2015. (Doc. #20). On August 5, 2015, Respondent filed a second motion for extension. (Doc. #26). This motion was granted giving Respondent up to and including September 4, 2015. Respondent filed a return and memorandum on September 4, 2015. Accordingly, it is recommended that Plaintiff’s motion for default judgment be denied.

¹ This habeas corpus case was automatically referred to the undersigned United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 19.02 (B)(2)(c), DSC. Because this is a dispositive motion, this report and recommendation is entered for review by the district judge.

CONCLUSION

Based on the above reasoning, it is RECOMMENDED that Plaintiff's motion for default judgment (doc. #32) be DENIED.

Respectfully submitted,

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

September 14, 2015
Florence, South Carolina

The parties' attention is directed to the important notice on the next page.